

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3123 of 1997

to

FIRST APPEAL No 3125 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

LEGAL HEIRS OF DECD.VIRAM RAMABHAI

Appearance:

GOVERNMENT PLEADER for Petitioner

MR YS LAKHANI for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 03/03/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. Appeals admitted. Mr. Y.S.Lakhani, waives service on behalf of the respondents - original claimants

in each of the appeals.

2. At the joint request of learned counsel for the parties, these appeals are taken up for final hearing today.

3. These appeals arise under section 54 of the Land Acquisition Act read with section 96 CPC, wherein the State has challenged the common judgment and awards passed by the Reference Court under section 18 of the said Act.

4. The impugned judgment, taken in it over all perspective is in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, conclusions drawn therefrom and the findings of fact recorded.

5. We may however highlight the findings of fact recorded by the Reference court for the purpose of examining the same in light of the contentions raised before us.

5.1 Firstly, the Reference Court has not accepted the instances of sale produced by the claimants at exhs. 25 & 26 which are sale deeds in respect of certain lands which according to the claimants are comparable. The Reference Court has rejected the contention that these are comparable lands mainly on the view that the contents of the sale deeds have not been proved in accordance with the rules of evidence particularly since neither the vendor nor the vendee and/or the attesting witness have been examined to prove the contents of the said sale deeds.

5.2 The Reference Court has found as comparable two awards at exhs. 12 & 13 on record to be comparable instances. The first award exh. 12 which is relied upon by the Reference Court is of the common judgment in Land Reference Case Nos. 36/87 to 67/87 under section 18 of the said Act. In this acquisition, relevant notification under section 4 was dated 18th December, 1980, which is almost 9 years prior to the relevant notification in the instant case which was dated 6th July, 1989. In this award, the land value has been determined at Rs. 140/per Are for Jirayat lands and Rs. 200/- per Are for Bagayat lands, in village Lakhdhirdh, which has been proved by appropriate evidence to be situated in the same taluka as village Anandpar, with which we are concerned in the instant group of appeals. In this context, it has to be noted that the notification under section 4 in exh. 12

was almost 9 years prior to the notification in the instant cases, and therefore, the Reference Court has thought it fit to make allowance for the general rise in price, improvement in methods of agriculture, improvement in the agricultural yields etc. and has fixed the market value of the acquired lands in the instant case at Rs. 350/- per Are.

5.3 The other instance relied upon by the Reference Court is at exh. 13 which is an award in Land Acquisition Case (under section 11 of the said Act) in which the relevant notification was dated 20th November, 1980, which is also approximately 8 and a half years prior to the instant notification. The lands under exh. 13 were valued by the LAO in the award under section 11 at Rs. 400/- per Are for Bagayat lands and Rs. 300/- per Are for Jirayat lands, in the village Manharpar. In this context, it has been proved by appropriate evidence on record that the village Manharpar, and the village Anandpar (with which we are concerned in the instant cases) are having a contiguous boundary. Although under exh. 13, the LAO has valued the lands at Rs. 300/- per Are for Jirayat lands and Rs. 400/- per Are for Bagayat lands, the Reference Court has, inspite of the lapse of eight and a half years between the section 4 notifications, scaled down the market value at Rs. 350/per Are, mainly on the ground that the lands which are the subject matter of the present acquisition have not retained their original quality and fertility inasmuch as the same had been severely damaged by floods a few years prior to the acquisition. In fact, the lands came to be acquired on a proposal made by Irrigation & Panchayat Division, through the Executive Engineer, precisely because the lands had been damaged by floods.

5.4 In view of this state of evidence on record, learned counsel for the appellant was unable to seriously press his contention that the lands have been overvalued by the Reference Court.

6. The other findings of fact recorded by the Reference court are in favour of the State inasmuch as no compensation has been awarded for wells, pipelines etc.

7. On the facts and in the circumstances of the case, we are satisfied that the impugned awards passed by the Reference Court are eminently just and proper and do not require any interference. These appeals are therefore dismissed with no order as to costs. Decree accordingly.

8. The appellants are directed to deposit in the Reference Court the total amount of the award together with cost and interest separately in each Land Reference Case within a period of three months from today. Direct service permitted.

Amp/-